

and thing therein contained to the contrary in any wise notwithstanding, to be void.”

**128** \* That before as well as after the execution of this deed, Salmon sold to the defendant Thomas Clagett, goods to a

should be retained and complainant allowed to proceed to final hearing. *Dorsey v. Bank*, 17 Md. 408. Cf. *Kelley v. Balt.* 53 Md. 135. But an objection to the jurisdiction of the Court, or to the capacity of the plaintiff, may be taken advantage of at any time. *Withers v. Denmead*, 22 Md. 135; *Tartar v. Gibbs*, 24 Md. 338.

The motion to dissolve and exceptions to the answer are heard at the same time. *Keighler v. Savage Co.* 12 Md. 383; *Jones v. Magill*, 1 Bland, 177; *Gibson v. Tilton*, 1 Bland, 353. At the hearing, the plaintiff opens and concludes the argument. *Jones v. Magill*, *supra*; *Alex. Ch. Prac.* 86; *Heck v. Vollmer*, 29 Md. 511.

There are exceptions to the rule that when there are more than one defendant, no motion to dissolve can be heard till all have answered. *Jones v. Magill*, 1 Bland, 177; *Heck v. Vollmer*, 29 Md. 507. And the rule is that a defendant who has answered, may appeal from the order granting or refusing to dissolve an injunction without waiting for the answer of his co-defendant. *Balt. v. Weatherby*, 52 Md. 442, 447.

The want of a proper party is not a ground for dissolution; the party may be supplied before the final hearing. *Lucas v. McBlair*, 12 G. & J. 1. The plea of limitations in the answer is not a sufficient ground for the motion. *Hutchins v. Hope*, 12 G. & J. 244. A motion to dissolve cannot be made on filing a demurrer or plea. If, however, a demurrer to the whole bill should be allowed, the defendant might immediately move for a dissolution. *Alex. Ch. Prac.* 85.

As to how dissolution may be obtained when the suit abates by the death of the plaintiff, see *Walsh v. Smyth*, 3 Bland, 9. As to continuing the injunction till final hearing in special cases, see *Lynch v. Colgate*, 2 H. & J. 34. As to when an early day will be appointed for hearing the motion, see *Williamson v. Carnan*, 1 G. & J. 184; *Jones v. Magill*, 1 Bland, 177.

When the injunction asked for is ancillary to the relief prayed, and the cause is heard on motion to dissolve, if the injunction is refused, the bill should not be dismissed; the complainant being entitled to have the bill retained and to proceed to final hearing. But where the injunction asked for is not ancillary, but the primary and principal relief prayed, there is no reason for retaining the bill, if upon hearing on bill and answer, or bill, answer and depositions, it appears to the Court, there is no ground upon the merits for granting the injunction. *Kelley v. Balt.* 53 Md. 135.

Where an injunction was granted on a creditor's bill against a corporation, and its dissolution could not injure one creditor, while its continuance would defeat the plans for reorganization of the corporation and would be inconsistent with previous orders in the cause, there is no equity that would justify the Court in maintaining the injunction at the sole instance of one creditor as against all the others, as well as the corporation itself. *R. R. Co. v. R. R. Co.* 55 Md. 153.

When all, or any particular member of the defendants are implicated in the same charge, and that charge forms the material ground of the injunction, then the answers of all, or of as many as may be so implicated, should be required before dissolving the injunction, unless for some special reasons to the contrary. But if the defendant against whom the *gravamen* of the charges of the bill rests has fully answered, the injunction may be dissolved